

AMENDED IN SENATE JUNE 19, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1104**

**Introduced by Assembly Member Knox**

February 27, 1997

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An act to ~~amend Section 13080 of~~ *add Section 13081* to the Financial Code, relating to financial transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1104, as amended, Knox. Point of sale transactions.

Existing law provides that if the sale of a good or service is conducted at an ATM, the operator of that ATM shall disclose the total price of the good or service and any fee charged solely for ATM usage.

This bill would ~~make that provision applicable to usage of a pay point device, as defined~~ *prohibit the operator of a point-of-sale device, as defined, from imposing any surcharge upon a customer for usage of the device unless the surcharge is disclosed prior to the transaction, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 13080 of the Financial Code is~~
- 2 *SECTION 1. (a) In enacting this act, the Legislature*
- 3 *finds and declares all of the following:*

1     (1) It is in the best interest of consumers in this state  
2     to be aware of surcharges they may be charged for using  
3     point-of-sale devices prior to being obligated to pay those  
4     surcharges.

5     (2) In 1996, the Legislature enacted Assembly Bill 3366  
6     (Chapter 98 of the Statutes of 1996), which required  
7     bank-operated automatic teller machines (ATMs) to  
8     electronically disclose surcharges for transaction at those  
9     ATMs. That legislation did not require disclosure of  
10    surcharges at non-bank point-of-sale devices.

11    (b) In order to maximize consumer awareness of  
12    surcharges at non-bank point-of-sale devices, and to  
13    create equity between bank-operated ATMs and  
14    non-bank point-of-sale devices, it is the intent of the  
15    Legislature in enacting this act to require the maximum  
16    feasible disclosure of surcharges at non-bank point-of-sale  
17    devices.

18    (c) In establishing the regulations pursuant to Section  
19    13081 of the Financial Code, the Department of Financial  
20    Institutions shall examine existing research on which  
21    methods of disclosure meet the goals of this act and shall  
22    examine the cost impact of disclosure to the customer, the  
23    operator, as defined in Section 13020 of the Financial  
24    Code, and to the retailer of those regulatory  
25    requirements. The department shall also consider the  
26    average life span of the point-of-sale devices in adopting  
27    regulations pursuant to that section.

28    SEC. 2. Section 13081 is added to the Financial Code,  
29    to read:

30    13081. (a) No operator of a point-of-sale device in this  
31    state shall impose any surcharge upon a customer for the  
32    use of that device unless that surcharge is disclosed to the  
33    customer prior to the transaction. That disclosure shall be  
34    placed on the point-of-sale device in a manner consistent  
35    with regulations adopted by the Department of Financial  
36    Institutions, as follows:

37    (1) For devices that do not have electronic displays,  
38    the surcharge disclosure shall be on a label meeting  
39    regulations established by the department.

1 (2) Until December 31, 1998, for devices that have  
2 electronic displays, the surcharge disclosure shall be on a  
3 label meeting regulations established by the department.

4 (3) Commencing January 1, 1999, for devices that have  
5 electronic displays, the surcharge disclosure shall be  
6 electronic, consistent with regulations established by the  
7 department.

8 (b) For purposes of this section, the term  
9 “point-of-sale device” includes any device used for the  
10 purchase of a good or service where a personal  
11 identification number (PIN) is required.

12 amended to read:

13 ~~13080. (a) No operator of an automated teller~~  
14 ~~machine (ATM) in this state shall impose any surcharge~~  
15 ~~upon a customer for the usage of that machine whether~~  
16 ~~or not the customer is using an access device issued by~~  
17 ~~that operator unless that surcharge is clearly disclosed to~~  
18 ~~the customer electronically on the automated teller~~  
19 ~~machine. Unless the disclosure is made prior to the~~  
20 ~~customer being obligated to pay the surcharge, the~~  
21 ~~customer shall be provided an opportunity to cancel that~~  
22 ~~transaction without incurring any surcharge. This~~  
23 ~~subdivision does not apply to a point of sale transaction at~~  
24 ~~an ATM.~~

25 ~~(b) If the sale of a good or service is conducted at the~~  
26 ~~ATM or through a pay point device, the operator of that~~  
27 ~~ATM or pay point device shall disclose to the customer~~  
28 ~~electronically on the ATM or pay point device the total~~  
29 ~~price of the good or service and any fee charged solely for~~  
30 ~~the usage of the ATM or pay point device. Unless the~~  
31 ~~disclosure is made prior to the customer being obligated~~  
32 ~~to pay for the good or service, the customer shall be~~  
33 ~~provided with an opportunity to cancel the transaction~~  
34 ~~without incurring any obligation.~~

35 ~~(c) If a surcharge is imposed on a customer using an~~  
36 ~~access device not issued by the operator, the operator~~  
37 ~~shall disclose that the customer may also be charged an~~  
38 ~~additional fee by his or her own institution.~~

39 ~~(d) As used in this section, “operator,” “automated~~  
40 ~~teller machine,” “customer,” and “access device” have~~

1 ~~the meanings set forth in Section 13020. The term~~  
2 ~~“surcharge” means any charge imposed by the operator~~  
3 ~~of the ATM solely for use of the ATM. The term “service”~~  
4 ~~includes, but is not limited to, receiving a statement of~~  
5 ~~account activity. The term “pay point device” includes~~  
6 ~~any device used for the purchase of a good or service~~  
7 ~~where a personal identification number (PIN) is~~  
8 ~~required.~~

